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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,035	12/11/2003	Hideki Matsunaga	FP03-144US	8773
1218	7590	06/19/2006	EXAMINER	
CASELLA & HESPOS 274 MADISON AVENUE NEW YORK, NY 10016			KALAFUT, STEPHEN J	
			ART UNIT	PAPER NUMBER

1745

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/734,035

Applicant(s)

MATSUNAGA ET AL.

Examiner

Stephen J. Kalafut

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date (2 dates).
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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Claims 2 and 7-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term “inclined”, in claims 2 and 7, is incomplete because what the “portions” are inclined from is not stated. Claims 8-12 depend from claim 7, and would thus likewise be indefinite.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-7 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Shannon (US 3,544,953).

Shannon discloses a battery positive cover (10) including a battery protection part (24, part of 25) for protecting a battery terminal (16), a wire harness mounting part (26) having an entry (29) for holding a wire harness (12) and including movable means (parts of 26 on either side of the entry 29) through which would pass the wire harness upon insertion into the cover. The two parts (of 26) would be normally be in a holding position (figure 1), which would be unbiased and undeformed, and would be deformed into an open position when the wire harness is inserted. As seen in figure 5, the wall (26) is at an oblique angle from the top wall (24), and thus would be “inclined”, to the extent that the term is understood. The two parts flanking the entry (29) would thus form inclined parts of the front and rear sides of the wall (26). The cover

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is made of plastic (column 3, lines 22-26), which would be a resinous material and elastically deformable. The cover also includes an elastically deformable finger (32).

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Luciano *et al.* (US 5,338,898).

Luciano *et al.* disclose a battery positive cover (1) including a battery protection part (2) for protecting a battery terminal (S), a wire harness mounting part (11) having an entry for holding a wire harness, where its two legs are normally shaped as semicircles, and thus in a holding position, and would have to be deformed away from the holding position into an open position. Each of the semicircular legs would be one of the present “moving means”.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shannon in view of Dewar *et al.* (US 5,196,338).

Shannon does not disclose locking means for holding the entry in a closed state. Dewar *et al.* disclose a battery terminal protector including a section (40) that holds a wire harness (14), which is held in place by locking means (50). To obtain the additional safety and stability

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afforded by the locking means, it would be obvious to use a locking means as shown by Dewar *et al.* in the battery terminal protector of Shannon.

Claim 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The prior art cited herein or by applicant does not disclose a terminal protection cover with a terminal protection part having a side open in a first direction, a connection part having a U-shaped cross section opening in a second direction, and a wire harness mounting part having a U-shaped cross section opening in a third direction, the three directions being mutually perpendicular.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sugiyama (US 5,925,854) and Lippert *et al.* (US 5,503,642) disclose battery terminal protectors. Computer-generated English translations of JP 2001-167810 and JP 2002-141056, cited by applicants, are enclosed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Kalafut whose telephone number is 571-272-1286. The examiner can normally be reached on Mon-Fri 8:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sjk



STEPHEN KALAFUT  
PRIMARY EXAMINER  
GROUP 1700